

## **TITLE 5**

# Septic shock wears off

By Eric Niller  
The Patriot Ledger

Enraged South Shore homeowners predicted a year ago that new septic system rules would cost them their life savings, make it impossible to sell their homes and even push some of them into bankruptcy.

Twelve months later, Title 5 still means trouble for many homeowners. But as the initial shock wears off, many more have come to accept the new rules as part of the price of living in the suburbs.

Just ask Joy Hazell.

The Scituate resident spent \$12,000 replacing her backyard septic system before she could sell her house last year. The bill was unexpected, and the delays "a terrible ordeal." In the end, though, Hazell got the \$200,000 she wanted for the house she'd lived in for 18 years.

"I am an environmentalist," said Hazell, 51, who moved to another house in Scituate, this one hooked into the sewer system that serves part of the town. "I do believe in the long run it's probably a good thing to do."

Title 5 took effect in March 1995 after months of wrangling. It applies to 660,000 Massachusetts homes — including thousands south of Boston — that use septic tanks or cesspools to dispose of sewage.

Before any of those houses can be sold, the septic system must pass a rigorous inspection. Those that fail must be repaired or replaced.

The law also prohibits new homes from being built in buffer zones

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around waterways and near drinking water wells. Separate rules were written for businesses that use septic systems, but they don't take effect until the end of the year.

Title 5 is designed to gradually rid Massachusetts of broken septic systems that send harmful bacteria and chemicals into nearby waterways and underground water supplies.

Whether it is achieving that goal at a reasonable cost is still being debated. But there's no question Title 5 has had a huge effect south of Boston:

- When it comes to failing systems, people who bought homes on rocky coastal ledges or small beachfront lots in towns like Cohasset, Scituate and Hingham are having a far worse time than homeowners elsewhere.

The state calls those three towns Title 5 "hot spots." In Cohasset, 33 percent of the systems inspected failed. In Scituate, it was 25 percent and in Hingham 18 percent. And of those failed systems, 80 percent needed replacement at a cost of more than \$15,000 each.

- Initially home sales slumped as sellers scrambled to get systems inspected and fixed. Between 1994 and 1995, home sales south of Boston dropped 10.5 percent.

But it's hard to clearly connect the drop to Title 5.

In Holbrook, where 31 percent of the systems inspected failed, home sales dropped 29.3 percent between 1994 and 1995. But in Halifax, where 21 percent of the systems failed, home sales rose 2 percent.

And on Cape Cod, an area where all homes are connected to septic systems, home sales jumped 13 percent from 1994 to 1995.

- Homeowners, real estate agents and others are still complaining about Title 5, and the Legislature isn't finished tinkering with the law. The Weld administration relaxed the rules last August. But Rep. Frank Hynes, D-Marshfield, wants to give homeowners tax breaks for making septic system repairs and eliminate the mandatory inspections.

- In response to Title 5, some communities are expanding municipal sewer systems or devising new ways of treating waste.

Duxbury, which has known for years it had a septic pollution problem in the Bluefish River and Snug Harbor areas, is constructing shared septic systems for homes and businesses that will result in a cleaner river, reopened shellfish beds and more room for commercial growth. Property owners will pay most of the \$730,000 cost.

Cohasset's town meeting recently voted to spend \$5.5 million to hook up nearly 350 houses near Straits Pond to the Hull sewer plant. Hingham is doing the same with 135 houses near the Weir River. Homeowners and the towns expect to split the cost, although that in Cohasset that depends on passage of a Proposition 2½ override.

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## Septic system shock

David Struhs arrived in Boston from Washington, D.C., just five weeks after Title 5 was enacted last year. As the new commissioner of the state Department of Environmental Protection, it was up to Struhs to sell the new rules to a skeptical public and angry legislators.

In the last 12 months more than 26,000 septic systems have been inspected in Massachusetts. A quarter failed — about what the DEP predicted before the law took effect.

The agency knew it would cost some homeowners tens of thousands of dollars to replace a broken system. But a recent statewide survey found the average cost of repairing a failed system to be \$6,200.

That's still a high price for homeowners used to paying only for the occasional septic tank pumpout. But Struhs argues it's worth it.

A DEP study released earlier this spring concluded that fixing septic systems could result in the reopening of shellfish beds worth an estimated \$5 million a year. Ending septic system pollution around the Wachusett Reservoir west of Boston could eliminate the need for a \$400 million plant to treat water for communities in the Massachusetts Water Resources Authority district.

Just this week, nearly 200 acres of shellfish beds on a section of the North River were opened after being closed for six years. Failing septic systems were a major contributor to water quality problems there, along with runoff from storm drains.

"As you look to the long term of protecting environmental resources, we're already seeing some benefits," Struhs said.

On the other hand, health agents say the new rules have meant more work and more delays for home sellers. Inspections can cost

buyers are aware of this."

But Terry Baker, senior vice president at Plymouth Mortgage Co. in Foxboro, says the rules are unfair because they target homes being sold, whether there's a problem or not.

"It's an overreaction, an overcompensation," Baker said. "Somewhere there's a happy medium we need to get there."

## Tinkering with Title 5

The anti-Title 5 movement that erupted during public hearings last spring prompted the Department of Environmental Protection to re-examine the rules.

After meetings with Lt. Gov. Paul Cellucci, Struhs relaxed standards last August. He said the regulations that remain still protect the environment.

The original rules said that if a septic system was within 50 feet of a water body, or 100 feet of a public well or drinking water supply, it automatically failed Title 5. Simply having a cesspool instead of a septic tank was enough to fail an inspection.

Those are no longer grounds for automatic failure.

Septic systems that pass Title 5 inspections are allowed within the 50- and 100-foot buffers, but new ones can't be built there. Working cesspools don't have to be replaced if they are farther than 50 feet from a water body, or more than 100 feet from a public well or water supply.

Towns that inspect all septic systems every seven years are exempt from mandatory inspections at the time of a sale (no South Shore towns have opted for this measure). And the state also waived Title 5 in neighborhoods that will be getting sewers within five years.

In addition, homeowners now have two years instead of one to fix failed systems. Health boards can also consider "economic feasibility" of upgrades when ordering people to fix their systems.

## SEPTIC SYSTEMS

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# Title 5: Septic system shock wears off

## Rules for firms delayed again

By Eric Niller  
The Patriot Ledger

While homeowners across Massachusetts have been forced to comply with new septic system rules for the past year, restaurants and other businesses have gotten a break from state officials.

Title 5 was originally supposed to take effect for large septic systems March 31, 1995, the same deadline as for smaller systems in yards of homes.

But last year, the Department of Environmental Protection delayed the start date

until Jan. 1, 1996. Then to July 1. Now businesses have until Dec. 31.

DEP Commissioner David Struhs said the cumulative pollution impact of the larger systems is much smaller than those operated by homeowners, just because there are so many more homes than small businesses.

The agency has no estimate of the number of businesses that will have to comply with Title 5.

Like homeowners, businesses must get a Title 5 inspection if the property is sold. They also must get one if the sewage flow

increases because of expansion.

Some businesses are already installing alternative systems that don't require large leaching fields in order to meet Title 5 rules.

"We're addressing the lion's share of the problem," Struhs said. "It's in the large systems that we'll see greatest gains in new technology."

But critics say the delays aren't fair.

"If they are a bigger system they have bigger chance of pollution," said Jennifer Sullivan, the health agent in Scituate. "The little guy is getting squished again."

## Title 5 and home sales



### Towns with 100 percent septic systems

TOWN	1994 to 1995 CHANGE IN HOME SALES	RATE OF SEPTIC SYSTEM FAILURES
Carver	-0.5%	27%
Duxbury	-17.9	15
Kingsdon	-24.0	11
Hallifax	2.0	21
Hanover	-15.3	25
Hanson	-5.0	19
Norwell	-5.7	20
Pembroke	-16.3	12
Sharon	-34.4	20
AVERAGE	-17.0	28

### Towns with partial sewage/partial septic

TOWN	1994 to 1995 CHANGE IN HOME SALES	RATE OF SEPTIC SYSTEM FAILURES
Arlington	-18.2%	36%
Canton	15.0	29
Cohasset	-19.2	33
Hingham	-12.0	18
Holbrook	-29.3	31
Hull	8.9	0
Marshfield	-10.5	15
Plymouth	-2.7	6 (Est.)
Rockland	10.0	N/A
Scituate	-12.4	25
Sloughton	-11.7	17
Walpole	-18.1	14
Whitman	5.6	50
AVERAGE	-7.0	16 (Est.)

### Towns with 100% MWRA service

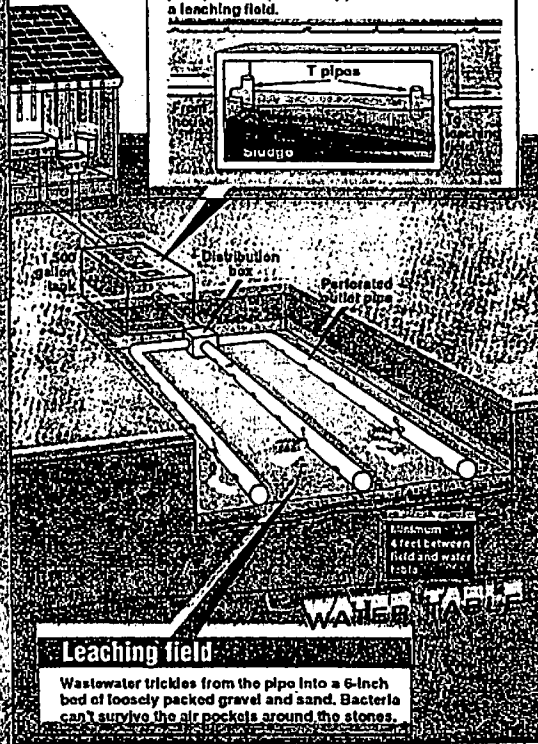
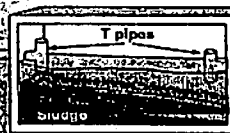
TOWN	1994 to 1995 CHANGE IN HOME SALES	RATE OF SEPTIC SYSTEM FAILURES
Braintree	-9.9	N/A
Millis	-1.5	N/A
Roslindale	-17.8	N/A
Quincy	-0.4	N/A
Randolph	-16.7	N/A
Weymouth	-18.3	N/A
AVERAGE	-10.0	

Source: Bunker & Underhill, survey of town health boards 1992

## How a septic system works

### Septic tank

Domestic sewage is separated into solid material and liquid waste in a septic tank. Bacteria inside the tank break down paper and organic matter into carbon dioxide and water. Solids and greases must be pumped out of the tank every couple of years to keep the tank working. Liquid waste containing nitrogen, phosphorous (from soap) and bacteria exit into a leaching field.



### Leaching field

Wastewater trickles from the pipe into a 6-inch bed of loosely packed gravel and sand. Bacteria can't survive the air pockets around the stones.

Graphics by Bob Monahan/The Patriot Ledger

# Backyard threat

Domestic sewage from failing septic tanks contains nitrogen and bacteria that degrade nearby waters. Nitrogen turns into nitrate, which can eventually contaminate drinking water and kill fish. People can become ill if they swim, drink or eat clams from bacteria-contaminated water.

